

1 BOARD OF SUPERVISORS

2 COUNTY OF LAKE, STATE OF CALIFORNIA

3 ORDINANCE NO. 3071

4 AN ORDINANCE EXTENDING URGENCY ORDINANCE NO. 3070 ALLOWING

5 TEMPORARY AND LIMITED REGISTRATION OF CERTAIN COMMERCIAL

6 CULTIVATION UNDER SPECIFIED CONDITIONS DURING A MORATORIUM PERIOD

7 WHEREAS, pursuant to Government Code section 65858, to protect the public safety,
8 health, and welfare, the County may as an urgency measure adopt an interim ordinance
9 prohibiting land uses that may be in conflict with contemplated land use regulations that the
10 County is studying or considering or intends to study within a reasonable time; and

11 WHEREAS, pursuant to Government Code section 25123, the County may enact an
12 ordinance for the immediate preservation of the public peace, health, or safety, which contains a
13 declaration of the facts constituting the urgency and which shall be effective immediately; and

14 WHEREAS, while medical cannabis and adult use cannabis were previously governed in
15 California separately, a single regulatory scheme was created in June of 2017 when the Medical
16 and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") was signed into law; and

17 WHEREAS, under MAUCRSA, licensing is necessary for all commercial cannabis
18 activity in California and, with very limited exception, all licenses under MAUCRSA will be
19 either for medicinal or adult use; and

20 WHEREAS, state licenses for both medical and adult use cannabis businesses will
21 become available in January of 2018 and will be regulated under MAUCRSA; and

22 WHEREAS, while the County presently has a local program to permit and regulate
23 medical cannabis cultivation, it presently does not permit commercial cannabis businesses to
24 cultivate and/or in any way operate in the County; and

25 WHEREAS, the County has made lengthy efforts to develop a local program to permit
26 and regulate commercial cannabis, in November of this year, the State issued emergency
27 regulations governing the issuance of licenses to cultivators and retailers, all of which come just
28

45 days before legal sales of marijuana in California may begin, and some of which constitute new and/or changed requirements; and

WHEREAS, given the new and expansive nature of this industry, the County requires time to review and consider the significance of these regulations as well as the significance of apparent gaps in the regulations before it may reasonably move forward with a permanent ordinance governing commercial cannabis; and

WHEREAS, pursuant to the requirements of MAUCRSA, a state license may be issued only if the licensee's activity is permitted by its local government; and

WHEREAS, the County is presently working toward the implementation of a local program to permit and regulate commercial cannabis, but has not yet developed the land use and other regulations to put such a local program in place; and

WHEREAS, there exists in the County a limited number of persons who have obtained the necessary written approvals from the State Water Resources Control Board and have been duly certified by the County Community Development Department as required by Ordinance Number 3068 and may be eligible for Type 1, Type 1c, Type 2 and Type 3 cultivation licenses from the State if an approval to cultivate for has been obtained from the County; and

WHEREAS, this Board finds that to allow said persons an interim commercial cultivation authorization as described hereinbelow for the maximum limited period of the term of this Urgency Ordinance, with no vested rights arising as a result and subject to immediate termination upon the termination of this Ordinance shall not presently create a hindrance or obstruction to the development and implementation of a permanent commercial cultivation ordinance.

NOW THEREFORE, the Lake County Board of Supervisors hereby ordains as follows

SECTION ONE. Findings.

The Board of Supervisors hereby incorporates by reference herein the Recitals hereinabove and additionally finds and declares the following:

This Ordinance is adopted as an urgency ordinance pursuant to the provisions of Government Code sections 25123 and 25131 and as an interim zoning ordinance pursuant to the provisions of Government Code section 65658 and shall be effective for a period of 45 days from its passage unless and until extended pursuant to the terms of subdivision (a) of that code section. Based on

the findings set forth above in this section of the Ordinance, the Board of Supervisors finds and determines that the adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare pursuant to the requirements of Government Code sections 25123, 25131, and 65858, and is necessary to provide additional time to consider the regulations issued by the State in November of this year so to consider and complete a permanent ordinance regulating commercial cannabis in the unincorporated areas of the County.

SECTION TWO. Prohibition.

Except as specified hereinbelow, in accordance with Government Code Section 65858, a moratorium against the cultivation, distribution, transport, storage, manufacturing, processing, testing, and sale of adult use commercial cannabis in any unincorporated area of the County of Lake is hereby adopted for 45 days pending further review and consideration of the impacts of recent State-issued cannabis regulations upon the development and implementation of a permanent County ordinance addressing commercial cannabis.

SECTION THREE. Limited and Temporary County Commercial Cultivation Approval.

During the period of time this urgency ordinance is in place and until a permanent ordinance for commercial cannabis cultivation is made final in Lake County, those persons who (1) have submitted a self-certification application of compliance under Article 72 of the Zoning Ordinance which has been deemed complete by the Community Development Department; and (2) have submitted a signed affidavit of compliance with state law and the conditions of this Ordinance as of the effective date of this Ordinance shall be issued a Letter of Authorization to proceed with an application for temporary state licensure for a commercial cannabis cultivation state license, with the caveat that said authorization shall only serve to acknowledge the applicant's prior compliance with state and local law and present eligibility under this Ordinance to pursue a local commercial cultivation permit when the County's permanent commercial cannabis ordinance is final. Said applicant shall be considered compliant with local laws for purposes of an application for a temporary state commercial cultivation license during the life of this Ordinance and/or until a permanent cultivation ordinance is in place, whichever occurs first. Said authorization shall not constitute a local permit to cultivate cannabis, is not an adjudication, and is not a permit or

approval of commercial cultivation at any particular location.

SECTION FOUR. No Vested Rights Created or Implied.

This Urgency Ordinance does not create, directly or indirectly, or imply any right to claim any vested right for cultivators. All registrations issued pursuant to this Ordinance shall automatically expire when this Ordinance expires and/or is terminated or when a permanent ordinance is adopted, whichever occurs sooner. Said limited registration shall be conditions upon the execution of a written acknowledgment by the registrant that no vested rights as to the registrant and/or the permitted use of the subject real property shall accrue as a result of the issuance of this limited registration. All cultivators will be required to apply for and be granted a land use permit under the County's permanent ordinance in order to cultivate.

SECTION FIVE. Compliance with California Environmental Quality Act.

The Board of Supervisors finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the contemplated Zoning Ordinance review.

SECTION SIX. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION SEVEN. Effective Date.

This ordinance shall be extended if adopted by at a least four-fifths vote of the Board of Supervisors and shall be in effect for ten (10) months and fifteen (15) days from the date of adoption unless rescinded.

Within fifteen (15) days after adoption of the ordinance, the Clerk to the Board of

Supervisors shall publish a summary of the Ordinance with the names of those supervisors voting for and against the ordinance and the Clerk shall post in the office of the Clerk to the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those supervisors voting for and against the Ordinance.

The Foregoing Ordinance was passed by the Board of Supervisors on the 23rd day of January, 2018, by the following vote:

AYES: Supervisors Simon, Smith, Scott and Steele

NOES: Supervisor Brown

ABSENT OR NOT VOTING: None



COUNTY OF LAKE

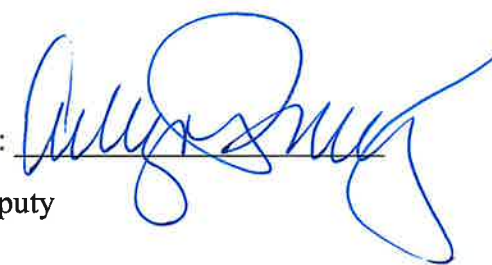
CHAIR, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON

Clerk of the Board of Supervisors

APPROVED AS TO FORM:

ANITA L. GRANT

By: 
Deputy

By: 